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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BARBARO ROSAS and GUADALUPE
TAPIA, as individuals and on behalf of all
other similarly situated persons,

Plaintiffs,

vs.

SARBANAND FARMS, LLC, MUNGER
BROS., LLC., NIDIA PEREZ, and CSI VISA
PROCESSING S.C.,

Defendants.

CLASS ACTION

Civil Action No. 2:18-CV-0112-JCC

DECLARATION OF JOACHIM MORRISON
IN SUPPORT OF PLAINTIFFS' MOTION
TO SERVE DEFENDANT CSI VISA
PROCESSING S.C. PURSUANT TO RULE
4(f)(3)

I, Joachim Morrison, declare under penalty of perjury that the following statements are
true and correct:

1. My name is Joachim Morrison. I am over eighteen years of age, competent to
testify as to the statements made in this declaration, and this declaration is based on my personal
knowledge.

2. I am an attorney with Columbia Legal Services. I am lead counsel for the Plaintiffs
Barbaro Rosas and Guadalupe Tapia.

DECLARATION OF JOACHIM MORRISON IN
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PURSUANT TO RULE 4(f)(3)- 1

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1 3. On August 8, 2017, I was in Sumas, Washington meeting with H-2A farm
2 workers, including the named Plaintiffs, at a make-shift tent camp where the workers were living
3 after being fired and evicted from Sarbanand Farms.

4 4. On that day, I spoke with Roxana Macias, a full-time employee of CSI Visa
5 Processing based in Olympia, Washington, who was attempting to speak with the H-2A workers
6 on behalf of Munger and Sarbanand.

7 5. I informed Ms. Macias I represented the workers and she needed to run all
8 communications through me. She provided me with a copy of her business card which identifies
9 her as the Director of Compliance. Exhibit 1. Ms. Macias's role as the Director of Compliance
10 "is to ensure all parties involved in recruitment of H2 workers abide by all applicable laws and
11 regulations." Exhibit 3.

12 6. I recognized Ms. Macias as someone who had previously worked for a
13 Washington H-2A labor contractor called WAFLA as I had been involved in another class action
14 lawsuit and reviewed discovery with her name on H-2A filings on behalf of a Washington grape
15 grower along with multiple emails between herself and the agricultural defendant in that case.

16 7. Based on additional investigation, I learned that Ms. Macias worked for WAFLA
17 for approximately three years on H-2A applications for Washington growers before leaving to
18 work at CSI Visa Processing around 2016. Ms. Macias has lived in Washington state for years
19 having grown up in the Yakima Valley, graduated from the University of Washington, and
20 worked for the Washington State Employment Security Department for two years. Exhibit 3.

21 8. During my investigation, I also researched the Washington Secretary of State's
22 corporations website and discovered an entity called CSI Visa Processing, USA ("CSI USA")
23 located in Olympia, Washington.

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1 9. The documents on the Secretary of State’s website were filed by Ms. Macias in
2 January 2017 and she was listed as the number one executor on CSI USA’s application.
3 Additionally, the address provided by Ms. Macias matched the address of CSI USA in Olympia,
4 Washington. Exhibit 2.

5 10. The Initial Report filed with the Secretary of State states the nature of CSI USA’s
6 business is to “engage in assisting entities in the processing of H2 agriculture visa non immigrant
7 workers.” *Id.*

8 11. The two other executors listed on the Secretary of State application were
9 Guillermo Mathus and Tania de la Fuente. *Id.*

10 12. The address provided for Mr. Mathus was in Durango, Mexico and the address
11 provided by Ms. de la Fuente was in Monterrey, Mexico. *Id.*

12 13. Guillermo Mathus is the president of CSI Visa Processing, S.C. based in Durango,
13 Mexico. Exhibit 3.

14 14. Tania de la Fuente’s business card lists her as the General Manager for CSI S.C.
15 based in Monterrey, Mexico. Exhibit 4.

16 15. On January 25, 2018, Plaintiffs initially filed suit against CSI Visa Processing,
17 USA.

18 16. On January 31, 2018, attorney Adam Belzberg of Stoel Rives LLP in Seattle,
19 Washington contacted me by telephone and stated that he had been retained by CSI Visa
20 Processing. Mr. Belzberg provided me with an email that he believed should lead Plaintiffs to
21 dismiss their claims against CSI USA and avoid suing the Mexican entity. Mr. Belzberg’s email
22 stated CSI Visa Processing, USA should be dismissed because it had “never been used for
23

1 anything.” He also provided an email from Roxana Macias and urged the Plaintiffs to dismiss
2 their FLCA claims because CSI Visa Processing S.C. was not subject to licensure in
3 Washington. Exhibit 5.

4 17. In part, the email from Ms. Macias stated, “CSI is a service provider in Mexico,
5 that engages in recruiting foreign H-2A workers. Our primary function is disclosing a work
6 contract to workers Washington State employers seek to employ. All of our services are rendered
7 in Mexico.” In response, I requested additional documentation from Mr. Belzberg about CSI
8 Visa Processing S.C.

9 18. During January and February, Plaintiffs hired a process server and then a private
10 investigator to serve the summons and complaint on CSI USA at its Olympia address. Both were
11 unable to serve anyone at the Olympia address, and it appeared to them that Ms. Macias was
12 evading service. I then re-contacted Mr. Belzberg and on March 1, 2018 he informed me he
13 would accept service on behalf of CSI USA.

14 19. Between March 5 and 7, 2018, Mr. Belzberg provided information that indicated
15 CSI Visa Processing S.C. was the proper defendant, because CSI USA had not been involved in
16 recruiting or processing the visas for the Plaintiffs or other putative class members in this case.
17 Mr. Belzberg provided multiple documents (contracts, forms, sign-in sheets) related to the
18 Plaintiffs, all of which he presumably obtained from the files of CSI Visa Processing S.C. Based
19 on Mr. Belzberg’s representation the CSI USA never conducted any business, it was a strong
20 indication that he was and has been in direct communication with CSI in Mexico.

21 20. On March 7, 2018, Plaintiffs Rosas and Tapia filed an Amended Complaint
22 against CSI Visa Processing S.C. and provided a courtesy copy to Mr. Belzberg via email.
23

1 21. On March 8, 2018, Mr. Belzberg informed Plaintiffs' counsel that he did not have
2 authority to accept service on behalf of CSI S.C. Exhibit 5.

3 22. Our office researched service of process in Mexico via the Hague Convention and
4 determined it will take approximately one year to serve CSI S.C., and the cost of serving CSI
5 S.C. will be approximately \$3,000.

6 23. On March 28, 2018, I telephoned Mr. Belzberg and informed him of our research
7 on Hague Convention service in Mexico and told him that a year's delay would not be in the
8 interests of my clients, and that a class action needed to move much more quickly so a court
9 could determine whether a class was appropriate. I also informed him that based on my legal
10 research we would be able to obtain an order for alternative service under Rule 4(f)(3) and asked
11 him to see if his client would waive service. Mr. Belzberg requested 24 hours to review the cases
12 I had researched and I forwarded those to him after our call.

13 24. At the end of the day on March 29, 2018, Mr. Belzberg emailed a response to me
14 indicating that our research was not on point and that he believed a motion for alternative service
15 was premature and would be sanctionable under Rule 11. He further stated that we could only
16 seek alternative service after we had attempted service through the Hague Convention for at least
17 six months.

18 25. On March 30, 2018, I telephoned Mr. Belzberg to discuss his email and provide
19 additional case law to support our request that CSI waive service. I informed him he was
20 misreading the rule and the case law and that alternative service in the United States was possible
21 irrespective of whether a plaintiff had attempted service under the Hague Convention.

22 26. During the call I asked if Mr. Belzberg was in contact with representatives from
23 CSI S.C. regarding this lawsuit.

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1 27. Mr. Belzberg told me that he had communicated with them regarding our
2 dismissal of the CSI USA entity and the addition of the CSI S.C. Mexican entity, and that he had
3 forwarded to them a copy of the lawsuit. He added that he had no authority to waive service and
4 did not technically represent CSI S.C.

5 28. I responded to Mr. Belzberg that I did not see any difference between the two
6 entities because they had the same principals – Ms. Macias, Mr. Mathus, and Ms. de la Fuente.

7 29. Mr. Belzberg agreed with my assessment and stated that CSI USA and CSI S.C.
8 were “the same owners; the same people.”

9 30. After the call, I sent Mr. Belzberg additional case law supporting our position that
10 alternative service in the United States was outside the formalities of the Hague Convention and
11 a plaintiff does not have to first attempt service under the Hague Convention in order to obtain
12 an order for alternative service. He promised to look at the cases right away and get back to me.

13 31. Later that day, Mr. Belzberg sent me an email stating, “As a foreign entity that is
14 covered by The Hague Convention and has no employees or operations in the US, it would be
15 contrary to FRCP 4(f)(1) and due process for service to be permitted on CSI domestically in this
16 case.” Exhibit 6.

17 32. Plaintiffs have served both grower defendants and the individual defendant, Nidia
18 Perez, and have held two productive, in-person meetings with their counsel to discuss scheduling
19 for discovery and class certification. Counsel for these defendants have raised concerns that
20 further progress will be difficult or impossible due to CSI’s absence and potential delay due to
21 service under the Hague Convention.
22
23

1 33. Attached as Exhibit 1 is a true and accurate copy of the business card provided to
2 me in August 2017 by Roxana Macias.

3 34. Attached as Exhibit 2 is a true and accurate copy of the CSI Visa Processing
4 USA's Initial Report filed with the Washington State Secretary of State Corporations Division.

5 35. Attached as Exhibit 3 is a true and accurate copy of an agenda and biographies
6 downloaded from the Washington Farm Labor Association (WAFLA) website.

7 36. Attached as Exhibit 4 is a true and accurate copy of the business card of Tania de
8 la Fuente.

9 37. Attached as Exhibit 5 is a true and accurate copy of emails exchanged between
10 attorney Adam Belzberg and myself between January 31, 2018 and March 8, 2018.

11 38. Attached as Exhibit 6 is a true and accurate copy of an email to me from Adam
12 Belzberg dated March 30, 2018.

13 39. Attached as Exhibit 7 is a true and accurate copy of the declarations of process
14 server Holly Hart and private investigator Theodore Trask regarding their attempt to serve CSI
15 Visa Processing, USA in Olympia, Washington.

16 SIGNED at Wenatchee, Washington this 4th day of April, 2018.

17 s/ Joachim Morrison

18 Joachim Morrison, WSBA# 23094

19 COLUMBIA LEGAL SERVICES

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23 Email: joe.morrison@columbialegal.org

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2018, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

David N. Bruce	<u>dbruce@sbwllp.com</u> ; <u>eservice@sbwllp.com</u>
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And I hereby certify that I have caused the document to be hand-delivered by courier to the following non-CM/ECF participants:

Adam Belzberg
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101-4109



Rachael Pashkowski

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